

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

STRIKE 3 HOLDINGS, LLC,

Plaintiff,

v.

CASEY POLUK,

Defendant.

No. 2:20-cv-2146–TLN–CKD

ORDER

On the court’s own motion, the hearing on plaintiff’s unopposed Motion for Default Judgment (ECF No. 25) currently calendared for October 20, 2021 will be vacated and the matter will be taken under submission without appearance and argument pursuant to Local Rule 230(c) and (g). If the court subsequently concludes oral argument is necessary, a hearing will be set and the parties who have appeared will be notified accordingly.

The declaration of Lincoln D. Bandlow in support of the motion for default judgment references a “letter... attached hereto as Exhibit 1.” (ECF No. 25-2 at 3.) The court finds no Exhibit 1. Plaintiff will be ordered to provide Exhibit 1 or an updated declaration.

In addition, pursuant to Federal Rule of Civil Procedure 55(b)(2), the court orders plaintiff to file supplemental briefing and/or evidence, under seal pursuant to Local Rule 141 if appropriate, addressing plaintiff’s identification of defendant as the infringer, and, specifically, providing any further evidence that the defendant is in fact the infringer. See Cobbler Nevada,

1 LLC v. Gonzales, 901 F.3d 1142, 1146 (9th Cir. 2018) (noting that “[i]nternet providers... can go
2 so far as to identify the individual who is registered to a particular IP address (i.e., an account
3 holder) and the physical address associated with the account, but that connection does not mean
4 the subscriber is even accessing the internet, and multiple devices can access the internet under
5 the same IP address”). “Identifying an infringer becomes even more difficult in instances...
6 where numerous people live in and visit a facility that uses the same internet service.” Id. While
7 this poses an “obstacle to naming the correct defendant, this complication does not change the
8 plaintiff’s burden to plead factual allegations that create a reasonable inference that the defendant
9 is the infringer.” Id. at 1146-47.

10 In accordance with the above, IT IS HEREBY ORDERED:

- 11 1. The October 20, 2021 hearing is VACATED;
- 12 2. Within 14 days from service of this order, plaintiff shall file Exhibit 1 to the declaration in
13 support of the motion for default judgment or an updated declaration, and shall provide any
14 supplemental briefing and/or evidence, under seal pursuant to Local Rule 141 if appropriate,
15 addressing plaintiff’s conclusion that defendant is, in fact the infringer; and
- 16 3. Plaintiff shall forthwith serve a copy of this order on defendant by U.S. mail at defendant’s
17 last known address, and within 7 days thereafter, shall file a proof or certificate of such service.

18 Dated: October 18, 2021

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20 CAROLYN K. DELANEY
21 UNITED STATES MAGISTRATE JUDGE

22 8.Strike3.2146.suppbrief
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